

REMARKS

Claims 1-4, 6-9, and 12-26 are pending. No amendments have been made to the claims in this response. Reconsideration and allowance of the claims are respectfully requested in view of the following remarks.

Claim Rejections Under 35 U.S.C. § 103(a)

Claims 1-4, 6-9, and 12-26 stand rejected under 35 U.S.C. § 103(a), as allegedly unpatentable over U.S. Patent No. 6,348,540 to Sugioka et al. (Sugioka) in combination with European Patent No. 0 509 506 to Matsumura et al. (Matsumura). Applicants respectfully traverse this rejection.

Claims 1-24 are directed to a composition that consists essentially of poly(arylene ether) resin, syndiotactic polystyrene, ethylene-octene elastomer, hydrogenated styrene-butadiene block copolymer, and a non-halogen fire retardant. In contrast Sugioka discloses at Col. 3, lines 15-21 a resin composition and an inorganic filler moiety. The resin composition comprising component (A) and optionally component (B), component (E), component (F), and the component (G). Component (A) is a syndiotactic styrenic polymer; component (B) is a rubber like elastomer having an affinity for component (A) and has been equated with the instantly claimed hydrogenated styrene-butadiene block copolymer; component (E) is a polymer having compatibility with or affinity for component (A) and having a polar group and has been equated with the instantly claimed poly(arylene ether); component (F) is an additional thermoplastic resin other than (A); component (G) is a polyolefin having a melt index of, at most, 25 grams per 10 minutes and has been equated with the instantly claimed ethylene-octene elastomer. The inorganic filler moiety comprises component (C) which is a fibrous filler and component (D) which is a tabular filler. Sugioka further discloses that the resin composition can additionally comprise a flame retardant. Matsumura has been cited for disclosing aromatic diphosphates as a non-halogen flame retardant.

Applicants assert that Claims 1-24 are not rendered obvious by the combination of Sugioka and Matsumura because the Claims 1-24 exclude the presence of the inorganic filler moiety required by Sugioka. The Examiner has refuted this argument by asserting that the inorganic filler moiety is, in and of itself, a non-halogen flame retardant. Applicants believe

that this interpretation is in contradiction with the disclosure of Sugioka. Sugioka describes the inorganic filler moiety separately and distinctly from the flame retardants thus implying that Sugioka considers flame retardants separate and distinct from the inorganic filler moiety. Furthermore a review of the fillers explicitly disclosed by Sugioka does not appear to include any known flame retardants and in fact several of the listed inorganic fillers such as glass fiber make flame retardancy more difficult to achieve in a given resin composition.

For an obviousness rejection to be proper, the Examiner must meet the burden of establishing that all elements of the invention are disclosed in the prior art; that the prior art relied upon, or knowledge generally available in the art at the time of the invention, must provide some suggestion or incentive that would have motivated the skilled artisan to modify a reference or combined references; and that the proposed modification of the prior art must have had a reasonable expectation of success, determined from the vantage point of the skilled artisan at the time the invention was made. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988). The obviousness inquiry also requires consideration of common knowledge and common sense. *KSR Int'l Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1742-43 (2007); *DyStar Textilfarben GmbH & Co. Deutschland KG v. C.H. Patrick Co.*, 464 F.3d 1356, 1367 (Fed. Cir. 2006) ("Our suggestion test is in actuality quite flexible and not only permits, but requires, consideration of common knowledge and common sense.") In summary the combination of Sugioka and Matsumara fail to render the instantly claimed composition obvious because the combined reference fail to teach all the elements of Claims 1-24, namely a composition that does not include a filler.

With regard to Claim 25 and 26, Applicants respectfully note that both of these claims require that the hydrogenated styrene-butadiene copolymer has a styrene content greater than or equal to 50% by weight, based on the total weight of the hydrogenated styrene-butadiene block copolymer. Neither Sugioka or Matsumara teach or disclose this element. Due to this deficiency in the references Sugioka and Matsumara cannot render Claims 25 and 26 obvious.

Claims 1-4, 6-9, and 12-26 also stand rejected under 35 U.S.C. § 103(a), as allegedly unpatentable over European Patent No. 1 045 003 to Kogure et al. (Kogure) in combination with European Patent No. 0 509 506 to Matsumura et al. (Matsumura). Applicants

respectfully traverse this rejection.

Kogure et al. is directed to a resin that has “good high speed castability and good spreadability”, and “which may be formed into laminates with paper” (Paragraph [0050]-[0051]). Kogure et al. discloses a composition comprising (A) a syndiotactic polystyrene, (B) an olefinic polymer and (C) a compound miscible with or having an affinity for component (A) and (B). (Abstract) Examples of component (B) include ethylene-octene copolymer elastomer. ([0021]) Examples of (C) include hydrogenated styrene-butadiene block copolymer. ([0022]) The composition may include several optional ingredients including polyphenylene ether. ([0028]) Kogure however, contains only a very general teaching with regard to the amount of polyphenylene ether and does not teach or suggest that an amount of polyphenylene ether t be used. In fact, Kogure states that the amount is not specifically defined and “could be suitably defined in accordance with the object of the invention” ([0029]). As mentioned above the object of Kogure is a resin that has “good high speed castability and good spreadability”, and “which may be formed into laminates with paper” which is quite different from the applications discussed and described in the pending application.

Applicants respectfully point out that the pending claims require that the poly(arylene ether) is present in an amount of 10 to 50 parts by weight, based on 100 parts by weight of the combined weight of poly(arylene ether), syndiotactic polystyrene, ethylene-octene elastomer, hydrogenated styrene-butadiene and non-halogen fire retardant. This is an element that is not taught by the references. Accordingly, Applicants believe a prima facie case of obviousness has not been established because a prima facie case of obviousness requires that the Examiner meet the burden of establishing that all elements of the invention are disclosed in the prior art. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988).

Reconsideration and withdrawal of the foregoing rejections are respectfully requested. It is believed that the foregoing remarks fully comply with the Office Action and that the claims herein should now be allowable to Applicants. Accordingly, reconsideration and allowance are requested.

If there are any additional charges with respect to this Amendment or otherwise, please charge them to Deposit Account No. 50-1131.

Respectfully submitted,

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